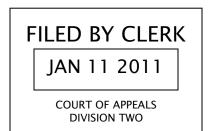
NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES. *See* Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24



## IN THE COURT OF APPEALS STATE OF ARIZONA DIVISION TWO

THE STATE OF ARIZONA,	) 2 CA-CR 2010-0285-PR
	) DEPARTMENT B
Respondent,	)
	) <u>MEMORANDUM DECISION</u>
V.	) Not for Publication
	) Rule 111, Rules of
ENRIQUE RUIZ OROZCO,	) the Supreme Court
	)
Petitioner.	)
_	_)
PETITION FOR REVIEW FROM THE SUPERIOR COURT OF PIMA COUNTY  Cause No. CR20083214	
0.000 0	
Honorable Howard Fell, Judge Pro Tempore	
REVIEW GRANTED; RELIEF DENIED	
Barbara LaWall, Pima County Attorney	
By Jacob R. Lines	Tucson Attorneys for Respondent
	rationneys for respondent
Enrique Ruiz Orozco	Tucson
	In Propria Persona

KELLY, Judge.

¶1 Petitioner Enrique Orozco seeks review of the trial court's order denying his of-right petition for post-conviction relief filed pursuant to Rule 32, Ariz. R. Crim. P. We will not disturb that ruling unless the court clearly has abused its discretion. *State v. Swoopes*, 216 Ariz. 390, ¶4, 166 P.3d 945, 948 (App. 2007).

Means of transportation, committed in August 2008. He also admitted having a 2005 conviction for theft of a means of transportation. The trial court sentenced him to an aggravated six-year prison term. Orozco filed a notice of post-conviction relief, and appointed counsel filed a notice stating he had reviewed the record and had found "no good faith basis in fact and/or law for post-conviction relief." *See* Ariz. R. Crim. P. 32.4(c)(2). Orozco subsequently filed a pro se petition, arguing trial counsel had been ineffective for advising him he would receive a mitigated sentence if he pled guilty, that the court had failed to consider all mitigating factors, that his sentence was improper because he would not receive adequate medical care in prison, and that an aggravated sentence based on his prior convictions violated double jeopardy. The court summarily denied relief.<sup>1</sup>

On review, Orozco again argues his trial counsel was ineffective because counsel told Orozco he would receive a mitigated sentence if he pled guilty. He does not explain, however, how the trial court abused its discretion in rejecting this argument below. We have reviewed the court's ruling and conclude it correctly denied this claim in a thorough and well-reasoned minute entry. No purpose would be served by restating the court's analysis here. *See State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993) (when court correctly identifies and rules on issues raised "in a fashion that

<sup>&</sup>lt;sup>1</sup>Orozco also filed a second petition for post-conviction relief, asserting both trial and Rule 32 counsel had been ineffective because neither had argued the trial court had erred by failing to consider in mitigation several facts related to Orozco's drug addiction. The court summarily denied that petition and Orozco apparently has not sought review of that decision.

will allow any court in the future to understand the resolution[, n]o useful purpose would

be served by this court rehashing the trial court's correct ruling in a written decision").

¶4 Orozco additionally asserts his drug addiction should have been considered

as a mitigating factor and that Arizona's sentencing scheme is unconstitutional because it

does not "make provisions for drug treatment." To the extent he raised the first argument

in his petition for post-conviction relief, it is unsupported by the record. As the trial court

correctly noted, Orozco's trial counsel argued he should receive a mitigated sentence

because his crimes were a result of his drug addiction. Because Orozco did not raise his

constitutional claim in the trial court, we do not address it. See State v. Ramirez, 126

Ariz. 464, 468, 616 P.2d 924, 928 (App. 1980); see also Ariz. R. Crim. P. 32.9(c)(l)(ii)

(petition for review shall contain "[t]he issues which were decided by the trial court . . .

which the defendant wishes to present" for review).

¶5 For the reasons stated, although we grant review of Orozco's petition, we

deny relief.

/s/ **Virginia C. Kelly**VIRGINIA C. KELLY, Judge

**CONCURRING:** 

/s/ Garye L. Vásquez

GARYE L. VÁSQUEZ, Presiding Judge

18/ Peter J. Eckerstrom

PETER J. ECKERSTROM, Judge

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